IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE S.SIRI JAGAN

WEDNESDAY, THE 19TH DECEMBER 2007 / 28TH AGRAHAYANA 1929

WP(C).No. 37900 of 2007(J)

PETITIONER:

KERALA STATE DRUGS & PHARMACEUTICALS LTD
KALAVOOR, ALAPPUZHA-688 522, REP. BY ITS
MANAGING DIRECTOR, K.G.AJITH KUMAR.

BY ADV. SRI.K.JOHN MATHAI

RESPONDENTS:

1. THE ASSISTANT PROVIDENT FUND
COMMISSIONER, EMPLOYEES PROVIDENT FUND
ORGANISATION, KALOOR, KOCHI-682 017.

2. THE EMPLOYEES PROVIDENT FUND APPELLATE
TRIBUNAL, 9TH FLOOR, MAYUR BHAVAN,CANNAUGHT CIRCLE
NEW DELHI-600 001.

BY ADV. SRI.S.GOPAKUMARAN NAIR (SR.)

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 19/12/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

S.SIRI JAGAN, J.

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W.P.(C).No.37900 of 2007

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Dated this the 19th day of December, 2007

J U D G M E N T

The petitioner is a company owned by the Government of Kerala engaged in the business of manufacture of drugs and pharmaceuticals. They have been assessed to damages and arrears of contributions under Sections 14B and 7A of the Employees' Provident Funds and Miscellaneous Provisions Act, 1952, by Ext.P2 order. The petitioner has filed Ext.P3 appeal against Ext.P2 order. In the meanwhile the 1st respondent has initiated coercive proceedings for recovery of the amounts assessed. The petitioner seeks stay of recovery pending disposal of the appeal. The petitioner submits that the petitioner company is in dire financial straits and if they are forced to pay off the amounts now assessed immediately they would be forced to close down the establishment itself rendering the employees jobless.

2. I have heard the learned Standing Counsel appearing for the Provident Fund Organization also, who opposes the prayer of the petitioner. He submits that the petitioner may be directed

to pay at least a portion of the amounts as a condition for stay pending appeal.

3. I have considered the rival contentions in detail.

4. It is a fact that the company is in dire financial trouble and is barely pulling on. The petitioner submits that they are paying the current dues from January, 2007 onwards without default. I am of opinion that if the demand is enforced the employees whom the Provident Fund Organization seeks to protect, themselves would be in trouble and it is only just and equitable that the recovery proceedings are not proceeded with during the pendency of Ext.P3 appeal. In the above circumstances, while directing the 2nd respondent to dispose of Ext.P3 appeal as expeditiously as possible, I direct the 1st respondent not to proceed with coercive proceedings till the disposal of the appeal.

The writ petition is disposed of as above.

Sd/-

sdk+ S.SIRI JAGAN, JUDGE

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P.A. to Judge.